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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

# Human rights and unilateral coercive measures

## Report of the Secretary-General

## Addendum

## Paraguay

[21 January 1999]
[Original: Spanish]

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1. The Paraguayan legal system takes effect through the National Constitution, the international treaties and conventions ratified by our country, its laws, decrees and resolutions.

2. The National Constitution, promulgated in 1992, in its chapter entitled "International relations" in article 123, states that "In its international relations, the Republic of Paraguay accepts international law and endorses the following principles [...] 4/ international solidarity and cooperation; 5/ international protection of human rights." This is not merely a list; it represents a statement of policy, a fundamental option which should determine the State's action in its international relations.

3. By its international instruments, Paraguay undertakes to ensure due process for all those injured in their rights or fundamental freedoms. The promotion and protection of human rights and fundamental freedoms at national and international level must be universal and must be applied unconditionally throughout the world.

4. Paraguay's development policy is determined by regional economic integration, especially MERCOSUR.

5. The Rio Group was born of the political will of a group of countries wishing to find a peaceful solution to the Central American crisis of the 1980s, as well as to avoid foreign intervention in Central America and the internationalization of the conflict. It claims to be the first specifically Latin American forum for the discussion of matters of common concern to the peoples of Latin America and the Caribbean. Paraguay became pro tempore coordinator of the Group.

6. The increasing tendency among some countries to impose unilateral measures has been distorting international relations, so that the countries of the Rio Group have felt the need to call on the international community as a whole and in particular on multilateral organizations such as United Nations to take appropriate measures against that type of behaviour.

7. In order to discuss the issue of unilateral measures, the Rio Group's Working Group met in Asunción on 23 July 1997, in accordance with the mandate issued by the sixteenth Meeting of Foreign Ministers. The purpose of this meeting was to make proposals to the Heads of State for possible courses of action giving effect to the Rio Group's rejection of the unilateral and extraterritorial application of national laws, on the basis of considerations underlying the position of the Rio Group, more specifically its position in principle highlighting the undertaking to agree on the common aim to strengthen multilateralism, as agreed at the first summit of the Rio Group in 1987.

8. Possible courses of action were envisaged in three possible areas:

(a) To raise the issue at all regional summits, that is, at Spanish-American and hemisphere summits as well as in the Rio Group;

(b) To encourage discussion in all international forums, such as the United Nations or the World Trade Organization (WTO);

(c) To encourage further debate in regional and subregional parliaments and international parliamentary forums.

9. The Common Market of the Southern Cone (MERCOSUR) was founded with the Treaty of Asunción, signed in 1991 by Paraguay, Argentina, Brazil and Uruguay. Rather than laying down directly operational rules, this Treaty contains a set of general principles and programme objectives, giving guidelines for policies to be developed after its ratification.

10. Negotiations have been in progress to obtain the admission of MERCOSUR as a customs union with WTO. This involves renegotiating the consolidated lists, and the analysis and adjustment of agreements arrived at within the framework of WTO in relation to MERCOSUR arrangements, and in particular Paraguay's relations with WTO.

11. Paraguay took over the pro tempore presidency of MERCOSUR in January 1997, proposing that the other States parties should join it in promoting actions aimed at achieving full trade liberalization and creating genuine conditions of internal competition, strengthening the customs union, improving the common trade policy, furthering the progress and legal development of MERCOSUR institutions and aiming for closer relations with other countries or groups of countries.

12. The other members were urged to establish a more efficient system for the internalization and implementation of agreements and concensuses achieved, so as to facilitate and guarantee the effective implementation of the extended economic space, to proceed with the elimination of the numerous non-tariff restrictions which still remain and which hamper reciprocal trade, and to seek the harmonized implementation of measures adopted, such as technical, including health and plant health regulations.

13. With regard to the international agenda, the pro tempore President of MERCOSUR called for due attention to be paid to existing economic, political and strategic commitments, which should be analysed realistically and objectively in the light of potential costs and benefits which may be generated by either multilateral or bilateral negotiations.

14. Within the MERCOSUR bloc, Paraguay is highly dependent and its involvement entails both benefits and costs. Benefits for the country include improving its image, increasing its negotiating power, guaranteeing the process of democratization, exercising its power of veto in MERCOSUR negotiations, and reducing corruption, especially that arising from foreign trade.

15. On the cost side, we might mention the diminished qualification of a less developed country in relation to the Latin American Integration Association, less independent economic policy, the loss to the Government in terms of tariffs on imports from MERCOSUR countries, and increased unemployment in the short- and medium-term.

16. In protecting intellectual property rights, our country sought the fulfilment of commercial undertakings entered into with the United States of

America. Paraguay will not appear in Special Section 301 at any level until the beginning of 1999, neither will it be liable to trade sanctions.

17. Although issues such as piracy and counterfeiting still remain, the Government has made significant progress towards resolving them. Some of the key points of the settlement between the United States and Paraguay include institutional reforms to strengthen border controls, as well as the introduction of amendments to legislation to facilitate the effective prosecution of piracy and copyright infringements.

18. Paraguay has undertaken to adopt immediate measures against counterfeiters, as well as to coordinate anti-piracy action by the Customs Department, National Police and Ministry of the Economy. Progress has been made towards solving the problem, some positive results being the destruction of counterfeit products worth a great deal and the confiscation of illegally reproduced merchandise. The clear efforts made by the Paraguayan Government in the struggle against piracy are also reflected in the promulgation of a new Trademark Act and approval of the Act on Royalties and related rights.

19. At international level, our country is due to sign the Patent Cooperation Treaty, although alternative measures do exist to avoid the abuse of patents as well as monopolistic and anti-competitive commercial practices on the part of patent inventors. The Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS) authorizes States, under certain conditions and subject to certain limitations, to establish the system of compulsory and non-compulsory licensing.

20. It is important to draw attention to the negative effects of unilateral coercive measures, such as the commercial measures imposed by the Argentine Ministry of the Economy, which punishes the economy of neighbouring peoples and gives rise to forceful measures obstructing trade relationships. The bridge of San Roque González de Santacruz (Paraguayan) was closed by a crowded demonstration of tradespeople and authorities led by politicians, to protest against border trade restrictions imposed by the Argentine Government. The Argentines have done the same, taking forceful measures against their country's protectionist measures.

21. Our country does not erect barriers to the trade of any of its MERCOSUR partners and expects to be treated by them in a similar fashion.

22. Brazil should provide its partners with justification for some of the protectionist measures it has taken, such as reducing the importation of goods from Argentina, Paraguay and Uruguay, the other member States of MERCOSUR.

23. Furthermore, such actions give rise to retaliation, like the threat by Argentina to increase import duties on some Brazilian products, such as steel, on the grounds that they are subsidized.

24. Our country has complained that both Argentina and Brazil have restricted purchases of goods by their citizens in Paraguay. The irritating trade barriers which have been imposed systematically on our foreign trade by

Argentina and Brazil have forced Paraguay to submit a formal protest to the partners in the regional block on the occasion of the MERCOSUR summit held in Rio de Janeiro.

25. Among outstanding MERCOSUR issues, we might mention: the concern caused by the Argentine announcement that as from 1 February 1999 the purchasing limit of tourists visiting Paraguay will be lowered from US$ 150 to US$ 100. That move apparently led to the closing of the bridge San Roque González de Santacruz (Paraguayan) and at present the Argentine President, Carlos Saúl Menem, has temporarily suspended the decision. Restrictive measures of that kind deliberately discourage shopping tourism in Ciudad del Este and Encarnación (Paraguay).

26. Brazil imposes restrictions on our exports, to such an extent that at the last "Paraguayan Industrial Congress" the Paraguayan Government was urged to defend national interests against excessive trade protectionism by Brazil.

27. Despite its guarantees for the free movement of goods and services, MERCOSUR still suffers shortcomings with regard to equitable treatment between its members. There is an urgent need to develop an efficient mechanism for solving the problems arising from the implementation of non-tariff barriers on regional trade. The new channel for resolving intra-regional conflicts should work on the harmonization of plant health control systems.

28. Paraguay obtained the Hilton quota with the qualification of "high-quality meat producer", as well as the tariff reduction granted by the European Union's Generalized system of Preferences, which applies from 1996 to 1999.

29. International cooperation with multilateral organizations has been reflected in the Agreement on Cultural, Scientific and Technical Cooperation and the establishment of the first joint Paraguayan-French Commission, and in the agreement to abolish visas with France for all types of passports.

30. Other agreements signed in France relate to the Financial Protocol, allowing Paraguay access to soft credit, to extradition, judicial cooperation in rural matters and the transfer of convicted persons.

31. To its traditional concern to fulfil its international commitments, Paraguay has added another, which is to give priority to preventive diplomacy, with a view to avoiding the generation and spread of disputes and conflicts.

32. By Executive Power Decree No. 15.759/96, the Ministry of Integration was instructed to collate the National Digest of Norms, with a view to providing the country with an up-to-date database on national positive law.

33. The MERCOSUR Basic Dictionary and the Programme of Action 2000 were disseminated in the course of programmes and seminars organized for the purpose in order to develop a permanent link with products in international markets, emphasizing improvement in product quality. Short training courses on recent developments in MERCOSUR were provided for technicians to promote PROPARAGUAY investments.

34. A protocol proposed by Brazil on consultation and political agreement in MERCOSUR will be signed by representatives of the bloc countries, plus Chile and Bolivia, in response to the need for a consultation and political agreement mechanism to facilitate the operation of the political side of MERCOSUR.

35. The fifteenth MERCOSUR summit is currently being held in Rio de Janeiro, Brazil. A declaration of principles is due to be signed there concerning workers' rights entitled "MERCOSUR Labour Declaration", which will set out principles relating to individual and collective rights of employees, workers' migration and the elimination of forced labour. This declaration, which has been described by Brazilian diplomats as "a kind of supranational constitution", prohibits all forms of discrimination on grounds of race, religion or sex, renews guarantees to other rights, such as freedom of association and the right to strike, and urges governments to foster employment, and to protect and afford security to union workers.

36. Those responsible for drafting the declaration say that it will be the most useful political instrument available at present to enable trade unions in MERCOSUR to demand clear labour policies of their Governments.

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